

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Watkins-Johnson Company Site
2301-3251/3301-3307 Hillview Avenue
Palo Alto, California 94305

Docket No. I/SE-CP 03/04-010

Respondent:

Bruce Scarbrough
SECOR International, Inc.
57 Lafayette Circle, 2nd Floor
Lafayette, CA 94549
Operator of the Watkins-Johnson Site

CONSENT ORDER

Health and Safety Code
Section 25187

1.0 Parties. The State Department of Toxic Substances Control (Department) and SECOR International, Incorporated (SECOR or Respondent) enter into this Consent Order and agree as follows:

1.1. Site. DTSC issued an Imminent or Substantial Endangerment Order and Remedial Action Order, Docket No. HSA-89/90-012 (Site Order) for the Watkins-Johnson Company Site historically located at 3333 Hillview Avenue in Palo Alto, Santa Clara County, California on May 30, 1990, and amended it on February 21, 1996 (Site Order Amendments). The current site addresses are 2301-3251 and 3301-3307 Hillview Avenue (Site).

1.2 Watkins-Johnson Company, now WJ Communications, Inc. (WJ), previously operated at the Site, primarily dealing with the design, development, and manufacture of advanced electronic devices, and related equipment for the military, industrial, and space applications. The Board of Trustees of the Leland Stanford Jr. University (Stanford) is the owner of the Site. As of July 15, 1999, SECOR assumed responsibility for the operation, maintenance, monitoring, and reporting requirements on behalf of WJ and Stanford.

1.3. DTSC approved the final Remedial Action Plan (RAP) for the Watkins-Johnson Company Site on March 31, 1994. The RAP required installation, operation and maintenance of two groundwater extraction and granulated activated carbon treatment systems (Building 5 and Building 6 systems).

1.4. The *2003 Consolidated Annual Monitoring Report for Hillview-Porter Region* prepared by SECOR and dated January 30, 2004 indicates that the granulated

activated carbon canisters were removed from the Building 5 and Building 6 groundwater extraction and treatment systems leading to direct discharge of the extracted groundwater to the sanitary sewer from both these systems (see pages 33 and 34). This discharge water contained volatile organic compounds at concentrations below the requirements of the Palo Alto Regional Water Quality Control Plant Discharge Permit Number 021208, issued on April 15, 2002.

1.5. SECOR disconnected the granular activated carbon canisters from the groundwater extraction and treatment system on July 17, 2003 and reconnected them to the treatment system on February 14, 2004 in response to a DTSC query and direction.

1.6. SECOR takes sole responsibility for removing the granulated activated carbon canisters from the Building 5 and Building 6 groundwater extraction and treatment systems. SECOR did not consult or notify DTSC prior to removing the canisters. SECOR believed it made no significant change in the remedial technology required in the RAP and was not required to notify DTSC.

2.0 The Department alleges the following violations:

2.1. The Respondent violated California Health and Safety Code section 25359.2 by discontinuing the remedial technology specified in the Final RAP for the Site and the Site Order. On or about July 17, 2003 and continuing until February 14, 2004, Respondent violated Section 15.5.6 (*Discontinuation of Remedial Technology*) of that Site Order without sufficient cause when they discontinued operations of any remedial technology employed in implementation of the Final RAP without DTSC's prior written authorization to do otherwise.

2.2. The Respondent violated California Health and Safety Code section 25359.2 by failing to notify the Department sixty (60) days prior to making significant changes to the selected remedial technology specified in the Final RAP and as specified in the Site Order. On or about July 17, 2003 and before, Respondent was subject to and violated Section 15.5.5 (Changes During Operation and Maintenance of the Final RAP) of the Site Order without sufficient cause when they failed to notify DTSC prior to removing the granulated activated carbon units from the Buildings 5 and 6 groundwater extraction and treatment systems.

3.0. A dispute exists regarding the alleged violations.

4.0. The parties wish to avoid the expense of litigation and to ensure continued compliance.

5.0. Jurisdiction exists pursuant to California Health and Safety Code Section 25187 and/or Section 25359.3.

6.0. The Respondent waives any right to a hearing in this matter.

7.0. This Consent Order shall constitute full settlement of the violations set forth in paragraphs 2.1 and 2.2 above. In consideration for the payment described in paragraph 10.1, the Department agrees not to take any further action regarding the violations alleged in paragraphs 2.1 and 2.2, but the Department is not limited from taking appropriate enforcement action concerning other alleged violations in the future. The Department will recover its oversight costs as previously arranged under the existing Site Order and/or Site Order Amendments, except to the extent specified in the payment provisions of this Consent Order.

8.0. By entering into this Consent Order, Respondent does not admit the violations alleged above, except as follows: Respondent admits the facts alleged in paragraphs 1.1 through 1.6. For purposes of any subsequent action brought by the Department pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq. or the Hazardous Substances Account Act, Health and Safety Code section 25300 et seq., alleging a future violation of the same sections alleged to have been violated in this Consent Order, Respondent will not contest the admitted facts.

SCHEDULE FOR COMPLIANCE

9.1.1 By signing below, Respondent certifies that it replaced the granulated carbon canisters as required by DTSC on or before February 14, 2004. DTSC relies on this representation as a material fact in entering this Consent Order.

9.1.2 Respondent agrees to provide written notice to DTSC in the future under paragraph Section 15.5.5 of the Site Order prior to removing any component of any remedial measure from service where replacement of an equivalent or more protective substitute does not immediately follow removal of that component. Respondent acknowledges that DTSC considers the granulated activated carbon canisters to be significant components whose removal requires prior written notice to DTSC and DTSC's prior written approval.

9.1.3 Within thirty days of receiving its copy of the fully executed Consent Order, Respondent shall serve the other entities noted in paragraph 1.2 above with a full and complete copy of the fully executed Consent Order as well as an Acknowledgment form. Within thirty (30) additional days thereafter, Respondent shall provide DTSC with those proof of service forms and signed acknowledgments.

9.2. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

9.3. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 1.2, in carrying out activities pursuant to this

Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.4. Incorporation of Orders, Plans and Reports. This Consent Order incorporates all prior Site Orders, Site Order Amendments, plans, schedules, and reports that required Department approval, that were submitted by Respondent pursuant to this Consent Order or were mentioned in this Consent Order.

PAYMENTS

10.1. SECOR shall pay the Department the total sum of \$25,000, which includes \$5,000 as reimbursement of the Department's legal costs incurred in connection with this matter, and \$20,000 as a penalty.

10.2. Payment in the amount of \$25,000 is due within 30 calendar days from the effective date of this Consent Order.

10.3. SECOR's check shall be made payable to the Department of Toxic Substances Control, shall identify the docket number as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st Floor
P.O. Box 806
Sacramento, California 95812-0806

10.4. SECOR shall also send one photocopy of the check to each of the following:

Ms. Barbara Cook, P.E., Chief
Northern California - Coastal Cleanup Operations Branch
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, California 94710

Ms. Vivian Murai, Staff Counsel
Office of Legal Counsel & Investigations
Department of Toxic Substances Control
1001 I Street, 23rd Floor
P.O. Box 806
Sacramento, California 95812-0806

10.5 If SECOR fails to make payment as provided above, SECOR agrees to pay interest at the rate established pursuant to California Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorneys' fees.

OTHER PROVISIONS

11.1. Additional Enforcement Actions. By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except as provided in this Consent Order.

11.2. Penalties for Noncompliance. Failure to comply with the terms of this Consent Order may also subject Respondent to civil penalties and/or damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by California Health and Safety Code sections 25188, 25359, 25359.3 and/or other applicable provisions of law.

11.3. Parties Bound. This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency of the State of California that may have responsibility for and jurisdiction over the subject matter of this Order.

11.4. Effective Date. The effective date of this Consent Order is the date it is signed by the Department.

11.5. Integration. This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented or modified, except as provided in this agreement.

11.6. Authority. The Parties represent and warrant that the persons executing this Consent Order are authorized to bind the Party such person represents.

Date: original signed on 10-06-04 original signed by Bruce Scarbrough
Bruce Scarbrough
SECOR International, Inc.

Date: original signed on 10-18-04 original signed by Barbara J. Cook
Barbara J. Cook, P.E., Chief
Northern California Coastal -
Cleanup Operations Branch
Department of Toxic Substances Control